



Mental Illness and the Legal System – How can lawyers help plug the gaps?

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What are the gaps?

Examples in Victoria:

- Mental Health Legal Centre has 2.5 EFT paid and around 0.5 EFT volunteer lawyers.
- Victoria Legal Aid has a Civil Law and Human Rights Law section which works in mental health law including a fortnightly visiting duty lawyer service to hospitals for Mental Health Review Board inpatient hearings

BUT

- Never more than 10% of hearings at Mental Health Review Board involve legal representation;
- Until 2008, MHLC could only offer telephone legal advice for three two hour afternoons sessions - otherwise our capacity for follow up casework would be unacceptably limited; and
- The many people in prison with mental illness cannot get help with a myriad of legal problems – eg debt, family law, access to treatment and support.

What can firms do?

- Major shift at Mental Health Legal Centre – 1992-1994 – program for lay advocates to represent people at Mental Health Review Board almost doubled Centre’s level of representation, but proved unsustainable.
- In 2008, Centre has pilot funding for a pro bono co-ordinator recruiting, training and supporting private lawyers to more than double our representation of CTO clients at the Board.

Mental Health Review Board Pro Bono Project

- Helps address fact that 70% of hearings at Board are about community treatment orders, but only 25% of the 10% of cases with representation are for CTOs.
- Gives private lawyers exposure to advocacy experience they may not otherwise get.

What clients get out of it

“Before the hearing, seeing the lawyer gave me renewed hope that someone was listening to my story.... I had felt so demoralised and disempowered by the system, and that everything I said was ignored by the psychiatrist. So having the lawyer speak on my behalf, gave real credence to my thoughts.”

What lawyers get out of it . . .

“In addition to providing personal satisfaction in achieving a good result for a client, the Centre provides an opportunity for lawyers to gain legal skills not readily available in a pro bono lawyer's normal practice. For example, advocacy - that skill which is traditionally considered so important in a good lawyer, can otherwise be a forgotten art.”

(Pro Bono Lawyer from Allens Arthur Robinson)

What lawyers get out of it . . .

“The ability to see the first hand effects of your work on a client’s daily life . . . The release of a client from her CTO which enabled her to focus on gaining proper employment – these cases alone tend to make the work worthwhile . . .

(Pro Bono Lawyer from Allens Arthur Robinson)

What does project involve?

- Lawyers commit to representing a client once every one or two months.
- Lawyers commit to provide at least 6 representations post-training.
- Firms commit to replacing lawyers as they leave project.
- Project Co-ordinator provides training and ongoing support.

Which firms are part of Mental Health Review Board Pro Bono Project?

- Stage one – Maddocks, Allens Arthur Robinson, Blake Dawson Waldron, Clayton Utz, Ebsworth & Ebsworth. (Maddocks have been in partnership with the Centre for around five years – they were partnered with us when the Attorney-General’s pro bono requirements for panel firms were established).
- Stage two – Minter Ellison and Lander and Rogers joined the project in October this year.

MHLC Night Service

- Funding from Victoria Legal Aid for Night Service Co-ordinator.
- 15 volunteer lawyers provide telephone advice two evenings per week – 10 from pro bono partner firms Freehills, Allens, Minter Ellison and Clayton Utz.
- Centre's phone advice capacity close to doubled.
- Co-ordinator provides some follow up casework and will explore volunteers doing some as project unfolds.

Inside Access – Prisoner Legal Service Project

- Legal Services Board provided funds to pilot a legal service for prisoners with mental illness.
- Plan is to pilot a clinic – Phillips Fox and Maurice Blackburn are likely to be involved.

Other support from Pro Bono Partnerships – eg:

- Extensive research by Allens Arthur Robinson on implications for Mental Health Act of new Charter of Human Rights and Responsibilities.
- Venue and catering support for community legal education forums and organisational review and planning meetings – Thanks to Russell Kennedy, Blake Dawson Waldron and Allens.
- Word-processing, transcribing and document production eg Maddocks typeset and printed 20 year history .

Pro Bono Support from Barristers

- Centre benefits greatly from pro bono support of barristers in particular cases:
- Recent examples – pro bono representation of involuntary patients invoking the new Charter of Human Rights and Responsibilities – Michael Stanton and Simon Moglia.